



General Assembly

January Session, 2011

Amendment

LCO No. 6406

HB0543906406HDO

Offered by:

REP. LUXENBERG, 12th Dist.

To: House Bill No. 5439

File No. 234

Cal. No. 145

**"AN ACT ESTABLISHING A TASK FORCE TO STUDY
PRESCRIPTION DRUG COVERAGE IN THE STATE."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 38a-492f of the general statutes is repealed and
4 the following is substituted in lieu thereof (*Effective October 1, 2011*):

5 [Each] (a) (1) No insurance company, health care center, hospital
6 service corporation, medical service corporation or fraternal benefit
7 society that delivers, issues for delivery, renews, continues or amends
8 in this state an individual health insurance policy providing coverage
9 of the type specified in subdivisions (1), (2), (4), (11), [and] (12) and (16)
10 of section 38a-469 [delivered, issued for delivery, renewed or
11 continued in this state on or after January 1, 2000,] that provides
12 coverage for outpatient prescription drugs shall [not deny] make any
13 of the following changes without providing to (A) its insureds or
14 subscribers, (B) its participating providers, and (C) its pharmacies,
15 preferred provider networks, pharmacy benefits managers or other

16 entities with which it contracts to provide or administer prescription
17 drug, prescription device or pharmacist services to its insureds or
18 subscribers, at least thirty days' advance notice of such change by mail
19 or electronic mail:

20 (i) Removing a drug from a drug formulary;

21 (ii) Reclassifying a drug to a tier that would increase the
22 coinsurance, copayment, deductible or other out-of-pocket expense for
23 such drug;

24 (iii) Imposing additional utilization management requirements for a
25 drug; or

26 (iv) Substituting or replacing any drug on a drug formulary,
27 whether brand name or generic, for or with any other drug, whether
28 brand name or generic.

29 (2) Such company, center, corporation or society shall not be
30 required to provide prior notice for the following changes to its drug
31 formularies: (A) To remove a drug that is identified as no longer safe
32 and effective by the federal Food and Drug Administration; or (B) to
33 add a generic drug that becomes available or a brand name drug,
34 provided such drug has been approved by the federal Food and Drug
35 Administration and the addition of such drug does not remove,
36 substitute or replace a drug in its drug formularies.

37 (b) No such company, center, corporation or society set forth in
38 subsection (a) of this section shall deny coverage for an insured or a
39 subscriber for any drug that [the insurer] such company, center,
40 corporation or society removes from its [list of covered drugs] drug
41 formularies, or otherwise ceases to provide coverage for, if (1) the
42 insured or subscriber was using the drug for the treatment of a chronic
43 illness prior to the removal or cessation of coverage, (2) the insured or
44 subscriber was covered under the policy for the drug prior to the
45 removal or cessation of coverage, and (3) the insured's or subscriber's
46 attending health care provider states in writing, after the removal or

47 cessation of coverage, that the drug is medically necessary and lists the
48 reasons why the drug is more medically beneficial than the drugs on
49 the [list of covered drugs] drug formulary. Such benefits shall be
50 subject to the same terms and conditions applicable to all other
51 benefits under such policies.

52 Sec. 2. Section 38a-518f of the general statutes is repealed and the
53 following is substituted in lieu thereof (*Effective October 1, 2011*):

54 [Each] (a) (1) No insurance company, health care center, hospital
55 service corporation, medical service corporation or fraternal benefit
56 society that delivers, issues for delivery, renews, continues or amends
57 in this state a group health insurance policy providing coverage of the
58 type specified in subdivisions (1), (2), (4), (11), [and] (12) and (16) of
59 section 38a-469 [delivered, issued for delivery, renewed or continued
60 in this state on or after January 1, 2000,] that provides coverage for
61 outpatient prescription drugs shall [not deny] make any of the
62 following changes without providing to (A) its insureds or subscribers,
63 (B) its participating providers, and (C) its pharmacies, preferred
64 provider networks, pharmacy benefits managers or other entities with
65 which it contracts to provide or administer prescription drug,
66 prescription device or pharmacist services to its insureds or
67 subscribers, at least thirty days' advance notice of such change by mail
68 or electronic mail:

69 (i) Removing a drug from a drug formulary;

70 (ii) Reclassifying a drug to a tier that would increase the
71 coinsurance, copayment, deductible or other out-of-pocket expense for
72 such drug;

73 (iii) Imposing additional utilization management requirements for a
74 drug; or

75 (iv) Substituting or replacing any drug, whether brand name or
76 generic, on a drug formulary, for or with any other drug, whether
77 brand name or generic.

78 (2) Such company, center, corporation or society shall not be
79 required to provide prior notice for the following changes to its drug
80 formularies: (A) To remove a drug that is identified as no longer safe
81 and effective by the federal Food and Drug Administration; or (B) to
82 add a generic drug that becomes available or a brand name drug,
83 provided such drug has been approved by the federal Food and Drug
84 Administration and the addition of such drug does not remove,
85 substitute or replace a drug in its drug formularies.

86 (b) No such company, center, corporation or society set forth in
87 subsection (a) of this section shall deny coverage for an insured or a
88 subscriber for any drug that [the insurer] such company, center,
89 corporation or society removes from its [list of covered drugs] drug
90 formularies, or otherwise ceases to provide coverage for, if (1) the
91 insured or subscriber was using the drug for the treatment of a chronic
92 illness prior to the removal or cessation of coverage, (2) the insured or
93 subscriber was covered under the policy for the drug prior to the
94 removal or cessation of coverage, and (3) the insured's or subscriber's
95 attending health care provider states in writing, after the removal or
96 cessation of coverage, that the drug is medically necessary and lists the
97 reasons why the drug is more medically beneficial than the drugs on
98 the [list of covered drugs] drug formulary. Such benefits shall be
99 subject to the same terms and conditions applicable to all other
100 benefits under such policies.

101 Sec. 3. Subsection (a) of section 38a-478e of the general statutes is
102 repealed and the following is substituted in lieu thereof (*Effective*
103 *October 1, 2011*):

104 (a) (1) Each managed care organization shall, prior to implementing
105 new medical protocols or substantially or materially altering existing
106 medical protocols, obtain input from physicians actively practicing in
107 Connecticut and practicing in the relevant specialty areas. The
108 managed care organization shall also seek input from physicians who
109 are not employees of or consultants, other than to the extent a person is
110 an employee or consultant solely for the purposes of this subsection, to

111 the managed care organization provided the input is not unreasonably
112 withheld. The managed care organization shall obtain the input in a
113 manner permitting verification by the commissioner and shall
114 document the process by which it obtained the input. For the purpose
115 of this section, "medical protocols" shall include, but not be limited to,
116 drug formularies or lists of covered drugs.

117 (2) If the medical protocol being substantially or materially altered
118 pursuant to subdivision (1) of this subsection is a drug formulary or a
119 list of covered drugs, the managed care organization shall comply with
120 the advance notice requirements of sections 38a-492f and 38a-518f, as
121 amended by this act."

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2011	38a-492f
Sec. 2	October 1, 2011	38a-518f
Sec. 3	October 1, 2011	38a-478e(a)